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of this section shall not exceed the portion of the tax paid after the execution of the agreement and before the making of the credit or refund, plus the amount that could have been properly credited or refunded under the provisions of section 6511(b)(2) if a claim had been filed on the date of the execution of the agreement.

(d) *Effective date of agreement.* The agreement referred to in this section shall become effective when signed by the taxpayer and the regional director (compliance).

(26 U.S.C. 6511)

[T.D. ATF-251, 52 FR 19314, May 22, 1987. Redesignated by T.D. ATF-301, 55 FR 47606, Nov. 14, 1990]

§ 70.264 Time return deemed filed and tax considered paid.

For purposes of section 6511 of the Internal Revenue Code, a return filed before the last day prescribed by law or regulations for the filing thereof shall be considered as filed on such last day. For purposes of section 6511(b) (2) and (c), payment of any portion of the tax made before the last day prescribed for payment shall be considered made on such last day. An extension of time for filing a return or for paying any tax shall not be given any effect in determining under this section the last day prescribed for filing a return or paying any tax.

(26 U.S.C. 6513)

[T.D. ATF-251, 52 FR 19314, May 22, 1987. Redesignated by T.D. ATF-301, 55 FR 47606, Nov. 14, 1990]

§ 70.265 Credits or refunds after period of limitation.

(a) A refund of any portion of any internal revenue tax (or any interest, additional amount, addition to the tax, or assessable penalty) shall be considered erroneous and a credit of any such portion shall be considered void:

(1) If made after the expiration of the period of limitation prescribed by section 6511 of the Internal Revenue Code for filing claim therefor, unless prior to the expiration of such period claim was filed, or

(2) In the case of a timely claim, if the credit or refund was made after the expiration of the period of limitation

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prescribed by section 6532(a) for the filing of suit, unless prior to the expiration of such period, suit was begun.

(b) For procedure by the United States to recover erroneous refunds, see sections 6532(b) and 7405 of the Internal Revenue Code.

(26 U.S.C. 6514)

[T.D. ATF-251, 52 FR 19314, May 22, 1987. Redesignated by T.D. ATF-301, 55 FR 47606, Nov. 14, 1990]

§ 70.266 Credit against barred liability.

Any credit against a liability in respect of any taxable year shall be void if the collection of such liability would be barred by the applicable statute of limitations at the time such credit is made.

(26 U.S.C. 6514)

[T.D. ATF-251, 52 FR 19314, May 22, 1987. Redesignated by T.D. ATF-301, 55 FR 47606, Nov. 14, 1990]

TRANSFEREES

§ 70.271 Procedure in the case of transferred assets.

(a) *Method of collection.* (1) The liability, at law or in equity, of a transferee of property of any person liable in respect of any tax imposed under provisions of 26 U.S.C. enforced and administered by the Bureau, in any case where the liability of the transferee arises on the liquidation of a corporation or partnership, or a corporate reorganization within the meaning of 26 U.S.C. 368(a), shall be assessed against such transferee and paid and collected in the same manner and subject to the same provisions and limitations as in the case of the tax with respect to which such liability is incurred, except as hereinafter provided.

(2) *Applicable provisions.* The provisions of 26 U.S.C. made applicable by 26 U.S.C. 6901(a) to the liability of a transferee referred to in paragraph (a)(1) of this section, include the provisions relating to:

(i) Delinquency in payment after notice and demand and the amount of interest attaching because of such delinquency;

(ii) The authorization of distraint and proceedings in court for collection; and

(iii) The prohibition of claims and suits for refund.

For detailed provisions relating to assessments, collections, and refunds, see 26 U.S.C. chapters 63, 64, and 65, respectively.

(b) *Definition of transferee.* As used in this section, the term "transferee" includes the shareholder of a dissolved corporation, the assignee or donee of an insolvent person, the successor of a corporation, a party to a reorganization as defined in 26 U.S.C. 368, and all other classes of distributees.

(c) *Period of limitations on assessment.* The period of limitations for assessment of the liability of a transferee is as follows:

(1) *Initial transferee.* In the case of the liability of an initial transferee, 1 year after the expiration of the period of limitations for assessment against the transferor.

(2) *Transferee of transferee.* In the case of the liability of a transferee of a transferee, 1 year after the expiration of the period of limitations for assessment against the preceding transferee, or 3 years after the expiration of the period of limitations for assessment against the taxpayer, whichever of such periods first expires.

(3) *Court proceeding against taxpayer or last preceding transferee.* If, before the expiration of the period specified in paragraph (c)(1) or (2) of this section, (whichever is applicable), a court proceeding against the taxpayer or last preceding transferee for the collection of the tax or liability in respect thereof, respectively, has been begun within the period of limitation for the commencement of such proceeding, then within 1 year after the return of execution in such proceeding.

(d) *Extension by agreement—(1) Extension of time for assessment.* The time prescribed by 26 U.S.C. 6901 for the assessment of the liability of a transferee may, prior to the expiration of such time, be extended for any period of time agreed upon in writing by the transferee and the regional director (compliance) or the Chief, Tax Processing Center. The extension shall become effective when the agreement has been executed by both parties. The period agreed upon may be extended by subsequent agreements in writing

made before the expiration of the period previously agreed upon.

(2) *Extension of times for credit or refund.* (i) For the purposes of determining the period of limitations on credit or refund to the transferee of overpayments made by such transferee or overpayments made by the taxpayer to which such transferee may be legally entitled to credit or refund, an agreement and any extension thereof referred to in paragraph (d)(1) of this section, shall be deemed an agreement and extension thereof for purposes of 26 U.S.C. 6511(c) (relating to limitations on credit or refund in case of extension of time by agreement).

(ii) For the purpose of determining the limit specified in 26 U.S.C. 6511(c)(2) on the amount of the credit or refund, if the agreement is executed after the expiration of the period of limitations for assessment against the taxpayer with reference to whom the liability of such transferee arises, the periods specified in 26 U.S.C. 6511(b)(2) shall be increased by the period from the date of such expiration to the date the agreement is executed.

(e) *Period of assessment against taxpayer.* For the purpose of determining the period of limitations for assessment against a transferee, if the taxpayer is deceased, or, in the case of a corporation, has terminated its existence, the period of limitations for assessment against the taxpayer shall be the period that would be in effect had the termination of existence not occurred.

(26 U.S.C. 6901)

[T.D. ATF-301, 55 FR 47648, Nov. 14, 1990]

BONDS

§ 70.281 Form of bond and security required.

(a) *In general.* Any person required to furnish a bond under the provisions of this part shall execute such bond:

(1) On the appropriate form prescribed by the Bureau (which may be obtained from the regional director (compliance) or the Chief, Tax Processing Center), and

(2) With satisfactory surety.